UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
DIANE CARDWELL,   )   CASE NO. 10-24580 JPK
)   Chapter 13
                 Debtor.   )

ORDER REGARDING MOTION FOR SUBSTITUTION
OF COLLATERAL ("MOTION")

The Motion was filed on July 21, 2011. The Motion refers to insurance proceeds

available to the debtor for purchase of a vehicle to replace a 2006 Dodge Charger alleged to

have been totaled in an automobile accident, a vehicle upon which Santander is alleged to have

a security interest. The relief requested is that the debtor be allowed to use the insurance

proceeds to replace the destroyed vehicle. While the Motion was served upon Santander as a

secured creditor, the Motion was not served upon the insurance company whose proceeds are

proposed to be used to purchase a replacement vehicle; in fact, the identity of the insurance

company is not even designated in the Motion. The court's order on this Motion will act in

essence as an affirmative injunction on the insurance company, in a manner which may place it

in a position of conflict in relation to its duty to Santander as a secured creditor. It is necessary

that the insurer be made a party to this contested matter, both by specifically designating the

insurer in the Motion and by serving the Motion in the manner required by applicable law upon

the insurer.

IT IS ORDERED that the debtor shall file an amended motion which conforms to the

requirements of this order (the motion is to include both the name and address of the insurer,

and be served upon the insurer) – by **August 22, 2011**. Upon the filing of a conforming motion,

and its proper service upon the parties thereto, the court will schedule the motion for a hearing

upon notice to the necessary parties. Failure to comply with this order will result in denial of the

Motion without prejudice.

Dated at Hammond, Indiana on August 12, 2011.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee